

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TROY EMANUEL, JR.,

Plaintiff

v.

WARDEN BACA, *et al.*,

Defendants

Case No. 3:20-cv-00392-JAD-WGC

ORDER

I. DISCUSSION

On June 26, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and a Financial Certificate. (ECF Nos. 1-1, 1-2). Plaintiff has neither paid the full \$400 filing fee for this matter nor filed an application to proceed *in forma pauperis* with complete financial attachments.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time** opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$400 filing fee for this action on or before **August 28**,

1 **2020.** Absent unusual circumstances, the Court will not grant any further extensions of
 2 time. If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
 3 with all three required documents or pay the full \$400 filing fee on or before **August 28,**
 4 **2020,** the Court will dismiss this case without prejudice for Plaintiff to file a new case with
 5 the Court when Plaintiff is either able to acquire all three of the documents needed to file
 6 a fully complete application to proceed *in forma pauperis* or pay the full \$400 filing fee.

7 To clarify, a dismissal without prejudice means Plaintiff does not give up the right
 8 to refile the case with the Court, under a new case number, when Plaintiff has all three
 9 documents needed to submit with an application to proceed *in forma pauperis*.
 10 Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis*
 11 and instead pay the full filing fee of \$400 on or before **August 28, 2020** to proceed with
 12 this case. The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the
 13 Court will not file the complaint unless and until Plaintiff timely files a fully complete
 14 application to proceed *in forma pauperis* with all three documents or pays the full \$400
 15 filing fee.

16 **II. CONCLUSION**

17 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send
 18 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well
 19 as the document entitled information and instructions for filing an *in forma pauperis*
 20 application.

21 IT IS FURTHER ORDERED that on or before **August 28, 2020,** Plaintiff will either
 22 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
 23 administrative fee) or file with the Court:

24 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
 25 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
 26 signatures on page 3),

27 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
 28 official (i.e. page 4 of this Court's approved form), and

1 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
2 **previous six-month period.**

3 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
4 application to proceed *in forma pauperis* with all three documents or pay the full \$400
5 filing fee for a civil action on or before **August 28, 2020**, the Court will dismiss this action
6 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
7 when Plaintiff has all three documents needed to file a complete application to proceed
8 *in forma pauperis* or pays the full \$400 filing fee.

9 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
10 (ECF No.1-1) but will not file it at this time.

11 DATED: June 29, 2020

12 Warren G. Cobb
13 UNITED STATES MAGISTRATE JUDGE
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